

BY COUNCIL MEMBERS: _____:

- WHEREAS** Pursuant to the Detroit Home Rule Charter's Declaration of Rights, "The people have a right to expect aggressive action by the city's officers in seeking to advance, conserve, maintain and protect the integrity of the human, physical and natural resources of this city from encroachment and/or dismantlement"; and
- WHEREAS** Public properties when managed and operated, should be for a public purpose as required under State and Federal law; and
- WHEREAS** House Bills 5028 and 5029, as written, may violate certain provisions of the Michigan and U.S. Constitutions; and
- WHEREAS** House Bill 5028's authorized purposes which include, "activities that enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within this state" is overly broad in its purposes and powers, possibly encroaching on individual rights and local government's efforts toward economic development and other rights under the Michigan Constitution; and
- WHEREAS** House Bill 5029 "authorized purposes means activities that enhance, foster, aid, provide, or promote transportation, economic development, housing, recreation, education, governmental operations, culture, or research within this state" greatly expands the powers and amends the purposes of the Hertel-Law-Stopczynski Port Authority Act, P.A. Act 639 of 1978, possibly going beyond that allowed under the Michigan Constitution; and
- WHEREAS** House Bill 5029, by going well beyond its original jurisdiction for ports, greatly interferes with the local government's powers and authority as granted under the Michigan Constitution, especially in regard to budgets, taxes and disposition of public properties as granted to home rule cities; and
- WHEREAS** House Bill 5028 and especially House Bill 5029 is without safeguards to prevent private entities from exercising governmental powers without governmental oversight and control, which could lead to an unfair competitive advantage over other public and private developments, possible in violation of the U.S. Constitution; and
- WHEREAS** Representatives from the community including the Gateway Communities Development Collaborative who represent nine community and business organizations in southwest Detroit, Downriver Community Conference, a consortium of nineteen Downriver communities in Wayne County and the Southern Wayne County Downriver Regional Chamber, which represents businesses in 21 communities in southern Wayne County also agree with the Detroit City Council in their opposition House Bills 5028 and 5029. **NOW THEREFORE BE IT**

- RESOLVED** That the Detroit City Council, in order to fulfill its legislative responsibilities, opposes House Bills 5028 and 5029 on constitutional issues presented and because it is detrimental to the 900,000 plus citizens in the City of Detroit and the State of Michigan; and **BE IT FURTHER**
- RESOLVED** That the Detroit City Council encourages the Michigan Senate to vote in opposition to House Bills 5028 and 5029 as currently written and should they pass them, we pray that Governor Jennifer Granholm would veto the same; and **BE IT FURTHER**
- RESOLVED** That if House Bill 5029 is amended, all powers originally granted to state and local governments under the Hertel-Law-Stopczynski Port Authority Act, P.A. Act 639 of 1978, including but not limited to legislative budgetary and plan approvals, be fully restored, and **BE IT FURTHER**
- RESOLVED** That any amendments to House Bill 5029 include the Detroit City Council's recommended amendments which are attached and are incorporated into this resolution by reference; and **BE IT FINALLY**
- RESOLVED** That any amendments to House Bill 5028 include the Detroit City Council's recommended amendments as reflected in the legal concerns and recommendations in this resolution.

**ATTACHMENT to the Detroit City Council's
Resolution dated May 17, 2006
Regarding House Bill 5029 Amendments**

The Detroit City Council requests that **House Bill 5029, if amended**, include the following provisions. These recommendations also include input from representative community groups.

The changes generally reflect:

1. Jurisdiction restricted to within the county where the Port Authority is created.
2. Finance, budgetary and economic development plans require the governing body's approval.
3. Authorized purposes activities related to port facilities or at ports of entry.
4. Deleted reference to "Port Economic Development Facility."
5. Expanded Port Authority Board members from 5 to 7; added 2 to be appointed by the City Council.
6. Removed reference to exceptions and other conditions to several acts such as:
 - A. Freedom of Information Act
 - B. Open Meetings Act
 - C. Brownsfield Redevelopment Financing Act
 - D. Local Development Financing Act
 - E. Urban Cooperation Act
7. Added definition and restrictions for master concession agreements, which require the governing body's approval.
8. Added restrictions on what the Authority can not do such as:
 - A. Delegating its powers and authorities to a private entity
 - B. Binding the governing body to financial obligations without the governing body's approval.
 - C. Giving preference to private entities as a condition of receiving funds or services for the facility.
9. Kept original Act language concerning trust agreements.
10. Restored that the Authority's plans and changes require the State and governing body's approval.
11. Added Downtown Development Act language regarding the Authority supplying a detailed plan for community input and review and the governing body's approval.
12. Reinserted that the Port Authority's budget must be submitted to the State for approval.

Provisions in bold and capitalized represent amendments to the Hertel-Law-Stopczynski Port Authority Act. 639 of 1978. Provisions that are not in bold and not capitalized represent existing language in the Act. Any provision double underlined and/or with double strikethroughs, represents proposed changes to House Bill 5029.

HOUSE BILL 5029 PROPOSED CHANGES

SEC. 2 (ADD DEFINITION OF MASTER CONCESSION)

A MASTER CONCESSION SHALL BE A CONCESSION AS DEFINED UNDER STATE OF MICHIGAN STATUTES, REGULATIONS AND CASE LAW. A CONCESSION OR MASTER CONCESSION SHALL NOT INCLUDE:

(A) DEVELOPING A PLAN, DEVELOPMENT PLAN OR FINANCE PLAN DETAILING ALL SUPPLEMENTS AND AMENDMENTS FOR THE DEVELOPMENT, CONSTRUCTION, EXPANSION, CONTRACTION, OPERATION, MAINTENANCE AND IMPROVEMENTS TO THE PORT FACILITY, INCLUDING MAPS AND PROFILES.

(B) DEVELOPING A BUDGET, CONSTRUCTION SCHEDULES, ARCHITECTURAL DRAWINGS AND PLANS AND SPECIFICATIONS.

(C) NEGOTIATING CONTRACTS FOR PROVISION OF MATERIALS, SERVICES, PROPERTY SALE OR ACQUISITION, BORROWINGS, UTILITIES AND OTHER MATTERS WITHOUT LIMITATION THAT ARE PART OF A MASTER PLAN.

(D) SETTING A PRICING SCHEDULE FOR THE PORT FACILITY.

SEC. 2 (B) "AUTHORIZED PURPOSES" MEANS ACTIVITIES THAT ENHANCE, FOSTER, AID, PROVIDE, OR PROMOTE TRANSPORTATION, ECONOMIC development RELATED TO PORT FACILITIES, RETAIL DEVELOPMENT AT INTERNATIONAL PORTS OF ENTRY, ~~housing, recreation, education, governmental~~ OPERATIONS, CULTURE, OR RESEARCH WITHIN THE JURISDICTION OF ANY CONSTITUENT UNIT THAT REQUESTS INCORPORATION OF AN AUTHORITY THIS STATE.

~~SEC. 2 (G) "PORT ECONOMIC DEVELOPMENT FACILITY" MEANS ANY REAL OR PERSONAL PROPERTY, OR BOTH, INCLUDING, BUT NOT LIMITED TO, MACHINERY, EQUIPMENT, PLANTS, FACTORIES, OFFICES, BUILDINGS, AND OTHER STRUCTURES AND FACILITIES THAT ARE RELATED TO, USEFUL FOR, OR IN FURTHERANCE OF 1 OR MORE AUTHORIZED PURPOSES.~~

Note: Delete all references to "Port Economic Development Facility" to avoid changing the object and purpose of the original Act, for example that appear in Sections: 2(G); 2(I); 8(1)(A)(E); 8(F); 8(K); 9(C); 13(1); 14(1).

Sec. 2 (I) ~~(F)~~ "Project" means the acquisition, purchase, construction, reconstruction, rehabilitation, FINANCING, remodeling, improvement, enlargement, repair, condemnation, maintenance, or operation of port facilities ~~OR PORT ECONOMIC DEVELOPMENT FACILITIES.~~

Sec. 3 An authority may exercise and apply any and all of its powers and duties as prescribed and set forth in this act, within the respective boundaries of the county or counties creating a port authority under this act, including jurisdiction over commercially navigable water lying within. **AN AUTHORITY SHALL NOT HAVE POWERS AND DUTIES BEYOND THE RESPECTIVE BOUNDARIES OF THE COUNTY OR COUNTIES CREATING A PORT AUTHORITY UNDER THIS ACT.**

Sec. 4. (1) A city and county, a combination of counties or a combination consisting of at least 1 city and 1 county, by ~~RESOLUTION OF THE GOVERNING BODY OR BY~~ joint resolution of their respective governing bodies, may request the governor to authorize the incorporation of an authority. The governor shall consider the recommendations of the ~~department of state highways and~~ **STATE** transportation **DEPARTMENT** and the department of ~~commerce in~~ **LABOR AND ECONOMIC GROWTH** authorizing the authority. The initial articles of incorporation shall be approved by the governor and may ~~thereafter~~ **THEN** be amended by resolution of the authority, subject to approval by the governor. After approval by the governor, the articles of incorporation and any amendments to those articles shall be effective upon filing with the secretary of state.

Sec. 5(5) An authority that is established in a county having a population of 1,500,000 or more shall consist of ~~5~~ **7** members as follows:

- (a) One member shall be appointed by the governor.
- (b) Two members shall be appointed by a majority of all members of the county board of commissioners of the county. The members appointed shall be nominated by the commissioners on the board who do not reside within the political boundaries of a city having a population of 750,000 or more.
- (c) Two members shall be appointed by the mayor of a city having a population of 750,000 or more that is located in the county.
- (D) **TWO MEMBERS SHALL BE APPOINTED BY THE CITY COUNCIL OF A CITY HAVING A POPULATION OF 750,000 OR MORE THAT IS LOCATED IN THE COUNTY.**

~~SEC. 7A. (1) FINANCIAL AND PROPRIETARY INFORMATION, INCLUDING TRADE SECRETS, SUBMITTED BY OR ON BEHALF OF AN EMPLOYER TO A PORT AUTHORITY OR TO A NONPROFIT CORPORATION ENGAGED BY CONTRACT TO PROVIDE ECONOMIC DEVELOPMENT SERVICES FOR A PORT AUTHORITY, IN CONNECTION WITH THE RELOCATION, LOCATION, EXPANSION, IMPROVEMENT, OR PRESERVATION OF THE BUSINESS OF THAT EMPLOYER IS NOT A PUBLIC RECORD SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. ANY OTHER INFORMATION SUBMITTED BY AN EMPLOYER UNDER SUCH CIRCUMSTANCES IS NOT A PUBLIC RECORD SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, UNTIL THAT EMPLOYER COMMITS IN WRITING TO PROCEED WITH THE RELOCATION, LOCATION, EXPANSION, IMPROVEMENT, OR PRESERVATION.~~

~~(2) NOTWITHSTANDING THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 to 15.275, the board of directors of a port authority and the board of trustees of a nonprofit corporation described in SUBSECTION (1), AND ANY COMMITTEE OR SUBCOMMITTEE OF SUCH ENTITIES, WHEN CONSIDERING INFORMATION THAT IS NOT A PUBLIC RECORD UNDER THIS SECTION, MAY CLOSE ANY MEETING DURING THE CONSIDERATION OF THAT INFORMATION PURSUANT TO A VOTE OF THE MEMBERS PRESENT ON A MOTION STATING THAT THE INFORMATION IS TO BE CONSIDERED. NO OTHER MATTERS SHALL BE CONSIDERED DURING THE CLOSED SESSION.~~

Sec. 8 (c) Maintain offices at a place or places, either within ~~or without~~ **OUTSIDE** ~~OF~~ its jurisdiction as ~~it~~ **THE AUTHORITY** may determine.

Sec. 8 (d) Acquire **BY GIFT OR PURCHASE, OWN**, construct, reconstruct,

rehabilitate, improve, maintain, **FURNISH, EQUIP, SELL, EXCHANGE,** lease as lessor or as lessee, repair, **FINANCE,** or operate port facilities within ~~OR OUTSIDE OF~~ its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land ~~therefor~~ **FOR THESE PURPOSES.** An authority may operate a leased facility, owned by the authority, if the lessee defaults and a new lease is negotiated or competitively bid.

Sec.8 ~~— (E) ACQUIRE BY GIFT OR PURCHASE, OWN, CONSTRUCT, RECONSTRUCT, REHABILITATE, IMPROVE, MAINTAIN, FURNISH, EQUIP, SELL, EXCHANGE, LEASE AS LESSOR OR AS LESSEE, REPAIR, FINANCE, OR OPERATE PORT ECONOMIC DEVELOPMENT FACILITIES WITHIN OR OUTSIDE OF ITS TERRITORIAL JURISDICTION.~~

Sec. 8 (F) ~~(e)~~ Designate the location and character of the port facilities which ~~AND PORT ECONOMIC DEVELOPMENT FACILITIES THAT~~ the authority may hold, **CONTROL,** or own or over which it is authorized to act and regulate all matters related to the location and character of those port facilities.

Sec 8 (1)(G)(iv) ~~(h) GUARANTEE THE OBLIGATIONS OF ANY GOVERNMENTAL ENTITY.~~

Sec. 8 (1) ~~— (O) POSSESS THE SAME RIGHTS, PRIVILEGES, AND POWERS GRANTED AN AUTHORITY IN THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651 TO 125.2672.~~

~~— (P) POSSESS THE SAME RIGHTS, PRIVILEGES, AND POWERS GRANTED AN AUTHORITY IN THE LOCAL DEVELOPMENT FINANCING ACT, 1986 PA 281, MCL 125.2151 TO 125.2174.~~

~~— (Q) ENTER INTO AN INTERLOCAL AGREEMENT UNDER THE URBAN~~

~~COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512, WITH A PUBLIC AGENCY AS DEFINED BY THE URBAN COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512.~~
~~SEC. 8 (2) A PORT AUTHORITY MAY ACCEPT AND HOLD AS CONSIDERATION FOR THE CONVEYANCE OF PROPERTY OR ANY INTEREST THEREIN SUCH PROPERTY OR INTEREST THEREIN AS THE AUTHORITY IN ITS DISCRETION MAY DETERMINE, NOTWITHSTANDING ANY RESTRICTIONS THAT APPLY TO THE INVESTMENT OF FUNDS BY AN AUTHORITY.~~

SEC. 8A AN AUTHORITY SHALL NOT:

- (1) ENTER INTO A MASTER CONCESSION AGREEMENT OR CONCESSION AGREEMENT WITHOUT THE WRITTEN APPROVAL BY THE GOVERNING BODY. ALL DOCUMENTS PERTAINING THERETO MUST BE PRESENTED TO THE GOVERNING BODY IN THEIR ENTIRETY PRIOR TO APPROVAL, AFTER COMPLYING WITH ALL OF THE NOTICES AND HEARING REQUIRMENTS UNDER SECTION 23 OF THIS ACT.**
- (2) GRANT A MASTER CONCESSION AGREEMENT OR CONCESSION AGREEMENT WITHOUT FIRST SUBMITTING THE REQUESTS FOR COMPETITIVE BIDS AND QUOTES TO THE PUBLIC THROUGH ESTABLISHED PUBLIC NOTICES AND PROCEDURES AS APPROVED BY THE AUTHORITY. CONCESSION AGREEMENTS SHALL NOT BE ASSIGNABLE OR TRANSFERABLE WITHOUT THE APPROVAL BY THE GOVERNING BODY.**
- (3) COMMIT, OBLIGATE OR ENCUMBER RESOURCES OR PROPERTY IT DOES NOT OWN OR CONTROL AS A CONDITION TO PERFORM SERVICES OR FINANCE PAYMENTS WITHOUT FIRST GETTING THE PRIOR WRITTEN PERMISSION OF THAT PERSON OR ENTITY OR GOVERNING BODY WHO OWNS OR CONTROLS SUCH RESOURCES OR PROPERTY.**
- (4) ENTER INTO ANY AGREEMENT FOR OTHER PROPERTIES PROXIMATE TO EXISTING OWNED OR OPERATING PROPERTIES**

WITHOUT THE PRIOR WRITTEN PERMISSION OF THAT PERSON OR ENTITY OR GOVERNING BODY WHO OWNS OR CONTROLS SUCH RESOURCES OR PROPERTY.

(5) AGREE TO GRANTING TAX EXEMPT STATUS IN ANY AGREEMENT PRIOR TO APPROVAL BY THE GOVERNING BODY. ANY SUCH PLAN OR PROJECT CONNECTED THERETO MUST BE IN CONFORMANCE WITH SECTION 23 OF THIS ACT. ANY SUCH TAX EXEMPTION STATUS SHALL BE LIMITED TO THE EXTENT ALLOWED UNDER THE LAW AND NOT MERELY BY MUTUAL CONTRACTUAL AGREEMENT.

(6) ENTER INTO ANY AGREEMENT BINDING THE GOVERNING BODY FOR ANY PERFORMANCE OR FINANCIAL OBLIGATION OR ENCUMBRANCE OF PROPERTY IN WHICH THE GOVERNING BODY HAS A PROPERTY OR FINANCIAL INTEREST WITHOUT THE PRIOR WRITTEN APPROVAL OF THE GOVERNING BODY. SAID DOCUMENTS MUST BE PRESENTED TO THE GOVERNING BODY IN THEIR ENTIRETY PRIOR TO APPROVAL.

(7) ENTER INTO ANY AGREEMENT THAT OBLIGATES, ENCUMBERS OR CREATES LIABILITIES FOR THE GOVERNING BODY UNDER THE CONDITION OF DEFAULT BY THE AUTHORITY.

(8) DELEGATE ITS GOVERNMENTAL OVERSIGHTS AND FIDUCIARY DUTIES UNDER ANY AGREEMENTS WITH ANY OTHER PERSON OR ENTITY, OTHER THAN THE GOVERNING BODY. SUCH GOVERNMENTAL OVERSIGHTS AND FIDUCIARY DUTIES INCLUDE BUT ARE NOT LIMITED TO:

(A) THE CREATION AND APPROVAL OF A MASTER PLAN, DEVELOPMENT PLAN, OR FINANCE PLAN.

(B) THE CREATION AND APPROVAL OF A BUDGET, PRICING SCHEDULE, OPERATING PROCEDURES AND OTHER PORT FACILITY POLICIES AND PROCEDURES.

(C) DIRECTLY ENTERING INTO CONTRACTS AND SUBCONTRACTS FOR SERVICES ON THE PORT FACILITIES.

(D) MAINTAINING THE AUTHORITY'S FULL OVERSIGHT RIGHTS IN THE APPROVAL PROCESS.

(E) MAINTAINING THE AUTHORITY'S FULL LEGAL RIGHTS AND REMEDIES IN THE EVENT OF ITS DEFAULT OR BREACH OF AGREEMENTS OR CONTRACTS.

(F) MAINTAINING THE AUTHORITY'S FULL POWERS AND AUTHORITIES UNDER THIS ACT, SUCH AS BUT NOT LIMITED TO THE RIGHTS TO SELL, ASSIGN, LET, LIEN, OPTION, MORTGAGE, HYPOTHECATE, ENCUMBER, OR OTHERWISE CONVEY INTERESTS IN THE PORT FACILITY, WITHOUT REQUIRING THE APPROVAL OF A PRIVATE ENTITY OR PERSON.

(9) ALLOW ANY PERSON OR LEGAL ENTITY TO CHANGE A FACILITY OPERATIONS AGREEMENT, CONCESSION AGREEMENT OR OTHER CONTRACTS FOR SERVICES AND GOODS INVOLVING THE PORT FACILITY WITHOUT THE WRITTEN APPROVAL OF THE AUTHORITY.

(10) ENTER INTO ANY AGREEMENT FOR THE PURPOSE OF MAXIMIZING THE VALUE OF PROPERTIES AND THE PROFITS TO CURRENT AND FUTURE BUSINESSES, OR RECEIVING A DISPROPORTIONATE BENEFIT OF ANY PERSON OR PRIVATE LEGAL ENTITY, OR THEIR AFFILIATES.

(11) AGREE TO PLACE ANY PERSON OR PRIVATE LEGAL ENTITY, OR THEIR AFFILIATES BEFORE OR GREATER THAN THE PUBLIC PURPOSE AND BENEFIT.

(12) AGREE TO GIVE A PREFERENCE TO ANY PERSON OR PRIVATE LEGAL ENTITY OR THEIR AFFILIATES AS A CONDITION OF RECEIVING FINANCE OR FUNDS OR SERVICES FOR THE FACILITY.

(13) AGREE TO PERMIT RIGHTS OF FIRST REFUSAL BASED ON A WRITTEN BONA FIDE OFFER. ANY TERMS FOR THE SELL OF PART OR ALL OF A PORT AUTHORITY'S PROPERTY IN WHICH THE GOVERNING BODY HAS AN INTEREST MUST REQUIRE THE APPROVAL OF THE GOVERNING BODY, AND THE RIGHT OF THE CITY OR COUNTY IN

WHICH THE PROPERTY IS LOCATED TO HAVE THE PROPERTY
REVERTED BACK TO THE PREVIOUS OWNING CITY OR COUNTY, OR TO
SEEK A BEST OFFER.

(14) AGREE TO UNDERTAKE ANY STEPS THAT LEAD TO OR RESULT IN
INSOLVENCY, UNLESS AT THE DIRECTION OF THE GOVERNING BODY.

(15) AGREE TO NOT CHALLENGE LEGAL ISSUES, INCLUDING TAX
STATUS OF THE PARTIES TO WHICH IT CONTRACTS.

(16) AGREE TO FORMULA FOR CALCULATING INCOME AND
EXPENSES AND GROSS AND NET PROFITS FOR THE PURPOSE OF
DETERMINING A FISCAL YEAR'S SURPLUS OF UNENCUMBERED FUNDS
REMAINING FOR DISTRIBUTION TO THE GENERAL FUNDS OF THE
STATE AND CONSTITUENT UNITS, WITHOUT THE APPROVAL OF THE
GOVERNING BODY.

Sec. 15 (1) AN AUTHORITY MAY BORROW MONEY AND ISSUE ITS
REVENUE BONDS OR NOTES TO FINANCE OR REFINANCE PART OR ALL
OF A PROJECT AND THE COSTS NECESSARY OR INCIDENTAL TO THE
BORROWING OF MONEY AND ISSUING OF BONDS OR NOTES FOR THAT
PURPOSE, AND MAY SECURE THOSE BONDS AND NOTES BY MORTGAGE,
ASSIGNMENT, OR PLEDGE OF ANY OF THE AUTHORITY'S MONEY,
REVENUES, INCOME, AND PROPERTIES. BONDS AND NOTES MAY BE
ISSUED UNDER THIS SECTION REGARDLESS OF WHETHER THE
AUTHORITY OWNS OR PROPOSES TO OWN THE PROJECT.

~~—(2) BONDS AND NOTES ISSUED UNDER THIS SECTION ARE NOT
SUBJECT TO THE REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101
TO 141.140 OR THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL
141.2101 TO 141.2821.~~

Sec. 16. Revenue bonds issued pursuant to this act shall be
secured by a trust agreement by and between the authority and a
corporate trustee, which may be any trust company or bank having

the powers of a trust company, within or without the state. The trust agreement may pledge or assign the rentals and other revenues of the authority, but shall not convey or mortgage part or all of a project. The trust agreement shall contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition or construction of a project and the extension, enlargement, improvement, maintenance, operation, repair, and insurance of a project and the custody, safeguarding, and application of all money and may contain provisions for the employment of consulting engineers in connection with the construction and operation of a project. The trust agreement shall set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by the bondholders and may contain any other provisions the authority may consider reasonable and proper for the security of the bondholders.

~~SEC. 18A. A PLEDGE MADE BY AN AUTHORITY SHALL BE VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE MONEY OR PROPERTY PLEDGED AND RECEIVED BY THE AUTHORITY IMMEDIATELY SHALL BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT A PHYSICAL DELIVERY, FILING, OR FURTHER ACT. THE LIEN OF A PLEDGE SHALL BE VALID AND BINDING AS AGAINST PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE, AGAINST THE AUTHORITY, IRRESPECTIVE OF WHETHER THE PARTIES HAVE NOTICE. NEITHER THE RESOLUTION, THE TRUST AGREEMENT, NOR ANY OTHER INSTRUMENT BY WHICH A PLEDGE IS CREATED NEED BE FILED OR RECORDED.~~

Sec. 23. (1) An authority ~~created on or after May 1, 1984~~

shall within 2 years after its creation prepare ~~or cause to be prepared~~ a plan for the future development, construction, and improvement of the port and its facilities, including the maps, profiles, and other data and descriptions necessary to set forth the location and character of the work to be undertaken by the authority. ALL FUTURE DEVELOPMENT, CONSTRUCTION AND IMPROVEMENT OF PORT FACILITIES SHALL BE IN ACCORD WITH THE MASTER PLAN AND ZONING REGULATIONS OF THE LOCAL UNIT OF GOVERNMENT WHEREIN THE WORK IS PROPOSED TO OCCUR. IF THE CHANGES IN THE MASTER PLAN OR ZONING REGULATIONS ARE NECESSARY TO ACCOMMODATE THE ACTIVITIES PROPOSED IN THE PLAN, THE PLAN SHALL SET FORTH THE CHANGES THAT ARE PROPOSED AND THAT ARE TO BE IMPLEMENTED PURSUANT TO THE PROCEDURES SET FORTH IN STATE STATUTES, LOCAL ORDINANCES AND/OR RESOLUTIONS AND ECONOMIC AND COMMUNITY DEVELOPMENT PLANS WHICH WERE ADOPTED BY THE GOVERNING BODY. ~~An authority in existence before May 1, 1984 shall prepare or cause to be prepared the plan provided for in this subsection not later than September 30, 1985. The authority shall notify the legislature on April 15, 1985, as to the progress of the plan.~~

Sec. 23 (2) The plan and any modification, amendment, or extension, when adopted by the authority after notice and hearing, shall be conclusive except that plans for specific projects, to be undertaken in execution of the official plan, shall not be adopted by the authority without prior individual approval by the governing bodies of its constituent units, the state transportation department, and the department of commerce. LABOR AND ECONOMIC GROWTH.

SEC. 23 (3) (1) WHEN AN AUTHORITY DECIDES TO FINANCE A PROJECT IN ITS JURISDICTION BY THE USE OF REVENUE BONDS AS AUTHORIZED IN THIS ACT OR FINANCE PROJECTS AS AUTHORIZED IN THIS ACT, IT SHALL PREPARE A DEVELOPMENT PLAN.

(2) THE DEVELOPMENT PLAN SHALL CONTAIN ALL OF THE FOLLOWING:

(A) THE DESIGNATION OF BOUNDARIES OF THE DEVELOPMENT AREA IN RELATION TO HIGHWAYS, STREETS, STREAMS, OR OTHERWISE.

(B) THE LOCATION AND EXTENT OF EXISTING STREETS AND OTHER PUBLIC FACILITIES WITHIN THE DEVELOPMENT AREA, SHALL DESIGNATE THE LOCATION, CHARACTER, AND EXTENT OF THE CATEGORIES OF PUBLIC AND PRIVATE LAND USES THEN EXISTING AND PROPOSED FOR THE DEVELOPMENT AREA, INCLUDING RESIDENTIAL, RECREATIONAL, COMMERCIAL, INDUSTRIAL, EDUCATIONAL, AND OTHER USES, AND SHALL INCLUDE A LEGAL DESCRIPTION OF THE DEVELOPMENT AREA.

(C) A DESCRIPTION OF EXISTING IMPROVEMENTS IN THE DEVELOPMENT AREA TO BE DEMOLISHED, REPAIRED, OR ALTERED, A DESCRIPTION OF ANY REPAIRS AND ALTERATIONS, AND AN ESTIMATE OF THE TIME REQUIRED FOR COMPLETION.

(D) THE LOCATION, EXTENT, CHARACTER, AND ESTIMATED COST OF THE IMPROVEMENTS INCLUDING REHABILITATION CONTEMPLATED FOR THE DEVELOPMENT AREA AND AN ESTIMATE OF THE TIME REQUIRED FOR COMPLETION.

(E) A STATEMENT OF THE CONSTRUCTION OR STAGES OF CONSTRUCTION PLANNED, AND THE ESTIMATED TIME OF COMPLETION OF EACH STAGE.

(F) A DESCRIPTION OF ANY PARTS OF THE DEVELOPMENT AREA TO BE LEFT AS OPEN SPACE AND THE USE CONTEMPLATED FOR THE SPACE.

(G) A DESCRIPTION OF ANY PORTIONS OF THE DEVELOPMENT AREA THAT THE AUTHORITY DESIRES TO SELL, DONATE, EXCHANGE, OR LEASE TO OR FROM THE MUNICIPALITY AND THE PROPOSED TERMS.

(H) A DESCRIPTION OF DESIRED ZONING CHANGES AND CHANGES IN STREETS, STREET LEVELS, INTERSECTIONS, OR UTILITIES.

SEC. 23(4)(1) AN ESTIMATE OF THE COST OF THE DEVELOPMENT, A STATEMENT OF THE PROPOSED METHOD OF FINANCING THE

DEVELOPMENT, AND THE ABILITY OF THE AUTHORITY TO ARRANGE THE FINANCING.

(J) DESIGNATION OF THE PERSON OR PERSONS, NATURAL OR CORPORATE, TO WHOM ALL OR A PORTION OF THE DEVELOPMENT IS TO BE LEASED, SOLD, OR CONVEYED IN ANY MANNER AND FOR WHOSE BENEFIT THE PROJECT IS BEING UNDERTAKEN IF THAT INFORMATION IS AVAILABLE TO THE AUTHORITY.

(K) THE PROCEDURES FOR BIDDING FOR THE LEASING, PURCHASING, OR CONVEYING IN ANY MANNER OF ALL OR A PORTION OF THE DEVELOPMENT UPON ITS COMPLETION, IF THERE IS NO EXPRESS OR IMPLIED AGREEMENT BETWEEN THE AUTHORITY AND PERSONS, NATURAL OR CORPORATE, THAT ALL OR A PORTION OF THE DEVELOPMENT WILL BE LEASED, SOLD, OR CONVEYED IN ANY MANNER TO THOSE PERSONS.

(L) ESTIMATES OF THE NUMBER OF PERSONS RESIDING IN THE DEVELOPMENT AREA AND THE NUMBER OF FAMILIES AND INDIVIDUALS TO BE DISPLACED. IF OCCUPIED RESIDENCES ARE DESIGNATED FOR ACQUISITION AND CLEARANCE BY THE AUTHORITY, A DEVELOPMENT PLAN SHALL INCLUDE A SURVEY OF THE FAMILIES AND INDIVIDUALS TO BE DISPLACED, INCLUDING THEIR INCOME AND RACIAL COMPOSITION, A STATISTICAL DESCRIPTION OF THE HOUSING SUPPLY IN THE COMMUNITY, INCLUDING THE NUMBER OF PRIVATE AND PUBLIC UNITS IN EXISTENCE OR UNDER CONSTRUCTION, THE CONDITION OF THOSE UNITS IN EXISTENCE, THE NUMBER OF OWNER-OCCUPIED AND RENTER-OCCUPIED UNITS, THE ANNUAL RATE OF TURNOVER OF THE VARIOUS TYPES OF HOUSING AND THE RANGE OF RENTS AND SALE PRICES, AN ESTIMATE OF THE TOTAL DEMAND FOR HOUSING IN THE COMMUNITY, AND THE ESTIMATED CAPACITY OF PRIVATE AND PUBLIC HOUSING AVAILABLE TO DISPLACED FAMILIES AND INDIVIDUALS.

(M) A PLAN FOR ESTABLISHING PRIORITY FOR THE RELOCATION OF PERSONS DISPLACED BY THE DEVELOPMENT IN ANY NEW HOUSING, PROJECT OR FACILITY IN THE DEVELOPMENT AREA.

(N) PROVISION FOR THE COSTS OF RELOCATING PERSONS DISPLACED BY THE DEVELOPMENT AND FINANCIAL ASSISTANCE AND REIMBURSEMENT OF EXPENSES, INCLUDING LITIGATION EXPENSES AND EXPENSES INCIDENT TO THE TRANSFER OF TITLE, IN ACCORDANCE WITH THE STANDARDS AND PROVISIONS OF THE FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, BEING PUBLIC LAW 91-646, 42 U.S.C. SECTIONS 4601, ET SEQ.

(O) A PLAN FOR COMPLIANCE WITH ACT NO. 227 OF THE PUBLIC ACTS OF 1972, BEING SECTIONS 213.321 TO 213.332 OF THE MICHIGAN COMPILED LAWS.

(P) OTHER MATERIAL THAT THE AUTHORITY, LOCAL PUBLIC AGENCY, OR GOVERNING BODY CONSIDERS PERTINENT.

(3) A DEVELOPMENT PLAN MAY PROVIDE FOR IMPROVEMENTS RELATED TO A QUALIFIED FACILITY, AS DEFINED IN THE FEDERAL FACILITY DEVELOPMENT ACT, ACT NO. 275 OF THE PUBLIC ACTS OF 1992, BEING SECTIONS 3.931 TO 3.940 OF THE MICHIGAN COMPILED LAWS, THAT IS LOCATED OUTSIDE OF THE BOUNDARIES OF THE DEVELOPMENT AREA BUT WITHIN THE GEOGRAPHIC AREA OF THE GOVERNING BODY, INCLUDING THE COST OF CONSTRUCTION, RENOVATION, REHABILITATION, OR ACQUISITION OF THAT QUALIFIED FACILITY OR OF PUBLIC FACILITIES AND IMPROVEMENTS RELATED TO THAT QUALIFIED FACILITY.

SEC. 23 (4)(1) THE GOVERNING BODY, BEFORE ADOPTION OF AN ORDINANCE APPROVING OR AMENDING A DEVELOPMENT PLAN OR APPROVING OR AMENDING A FINANCING PLAN, SHALL HOLD A PUBLIC HEARING ON THE DEVELOPMENT PLAN. NOTICE OF THE TIME AND PLACE OF THE HEARING SHALL BE GIVEN BY PUBLICATION TWICE IN A NEWSPAPER OF GENERAL CIRCULATION DESIGNATED BY THE MUNICIPALITY, THE FIRST OF WHICH SHALL BE NOT LESS THAN 20 DAYS BEFORE THE DATE SET FOR THE HEARING. NOTICE OF THE HEARING SHALL BE POSTED IN AT LEAST 20 CONSPICUOUS AND PUBLIC PLACES IN THE DOWNTOWN DISTRICT NOT LESS THAN 20 DAYS BEFORE THE HEARING. NOTICE SHALL ALSO BE MAILED TO ALL PROPERTY TAXPAYERS OF RECORD IN THE WITHIN ONE MILE OF THE GEOGRAPHIC AREA INVOLVED IN THE PLAN, NOT LESS THAN 20 DAYS BEFORE THE HEARING. BEGINNING JUNE 1, 2006, THE NOTICE OF HEARING WITHIN THE TIME FRAME DESCRIBED IN THIS SUBSECTION SHALL BE MAILED BY CERTIFIED MAIL TO THE GOVERNING BODY OF EACH TAXING JURISDICTION LEVYING TAXES THAT WOULD BE SUBJECT TO CAPTURE IF THE DEVELOPMENT PLAN OR THE FINANCING PLAN IS APPROVED OR AMENDED.

(2) NOTICE OF THE TIME AND PLACE OF HEARING ON A DEVELOPMENT PLAN SHALL CONTAIN: A DESCRIPTION OF THE PROPOSED DEVELOPMENT AREA IN RELATION TO HIGHWAYS, STREETS, STREAMS, OR OTHERWISE; A STATEMENT THAT MAPS, PLATS, AND A DESCRIPTION OF THE DEVELOPMENT PLAN, INCLUDING THE METHOD OF RELOCATING FAMILIES AND INDIVIDUALS WHO MAY BE

DISPLACED FROM THE AREA, ARE AVAILABLE FOR PUBLIC INSPECTION AT A PLACE DESIGNATED IN THE NOTICE, AND THAT ALL ASPECTS OF THE DEVELOPMENT PLAN WILL BE OPEN FOR DISCUSSION AT THE PUBLIC HEARING; AND OTHER INFORMATION THAT THE GOVERNING BODY CONSIDERS APPROPRIATE. AT THE TIME SET FOR HEARING, THE GOVERNING BODY SHALL PROVIDE AN OPPORTUNITY FOR INTERESTED PERSONS TO BE HEARD AND SHALL RECEIVE AND CONSIDER COMMUNICATIONS IN WRITING WITH REFERENCE TO THE DEVELOPMENT PLAN. THE HEARING SHALL PROVIDE THE FULLEST OPPORTUNITY FOR EXPRESSION OF OPINION, FOR ARGUMENT ON THE MERITS, AND FOR INTRODUCTION OF DOCUMENTARY EVIDENCE PERTINENT TO THE DEVELOPMENT PLAN. THE GOVERNING BODY SHALL MAKE AND PRESERVE A RECORD OF THE PUBLIC HEARING, INCLUDING ALL DATA PRESENTED THEREAT.

SEC. 23(5) (1) THE GOVERNING BODY AFTER A PUBLIC HEARING ON THE DEVELOPMENT PLAN OR THE FINANCING PLAN, OR BOTH, WITH NOTICE THEREOF GIVEN IN ACCORDANCE WITH SECTION 23, SHALL DETERMINE WHETHER THE DEVELOPMENT PLAN OR FINANCING PLAN CONSTITUTES A PUBLIC PURPOSE. IF IT DETERMINES THAT THE DEVELOPMENT PLAN OR FINANCING PLAN CONSTITUTES A PUBLIC PURPOSE, IT SHALL THEN APPROVE OR REJECT THE PLAN, OR APPROVE IT WITH MODIFICATION, BY ORDINANCE BASED ON THE FOLLOWING CONSIDERATIONS:

(A) THE FINDINGS AND RECOMMENDATIONS OF A DEVELOPMENT AREA CITIZENS COUNCIL, IF A DEVELOPMENT AREA CITIZENS COUNCIL WAS FORMED.

(B) THE PLAN MEETS THE REQUIREMENTS SET FORTH IN SECTION 23

(C) THE PROPOSED METHOD OF FINANCING THE DEVELOPMENT IS FEASIBLE AND THE AUTHORITY HAS THE ABILITY TO ARRANGE THE FINANCING.

(D) THE DEVELOPMENT IS REASONABLE AND NECESSARY TO CARRY OUT THE PURPOSES OF THIS ACT.

(E) THE LAND INCLUDED WITHIN THE DEVELOPMENT AREA TO BE ACQUIRED IS REASONABLY NECESSARY TO CARRY OUT THE PURPOSES OF THE PLAN AND OF THIS ACT IN AN EFFICIENT AND ECONOMICALLY SATISFACTORY MANNER.

(F) THE DEVELOPMENT PLAN IS IN REASONABLE ACCORD WITH THE MASTER PLAN OF THE GOVERNING BODY.

(G) PUBLIC SERVICES, SUCH AS FIRE AND POLICE PROTECTION AND UTILITIES, ARE OR WILL BE ADEQUATE TO SERVICE THE PROJECT AREA.

(H) CHANGES IN ZONING, STREETS, STREET LEVELS, INTERSECTIONS, AND UTILITIES ARE REASONABLY NECESSARY FOR THE PROJECT AND FOR THE GOVERNING BODY.

(2) AMENDMENTS TO AN APPROVED DEVELOPMENT PLAN MUST BE SUBMITTED BY THE AUTHORITY TO THE GOVERNING BODY FOR APPROVAL OR REJECTION.

Sec. 24. (1) The authority shall submit in writing a detailed estimate of the budget required for the business and conduct of an authority's affairs, initially, for a 2-year period, and annually thereafter to the governing bodies of its constituent units, the department of LABOR AND ECONOMIC GROWTH commerce, and the department of state highways and transportation for approval. The state shall provide 50% of the operating budget of the authority, to be included in the department of state highways and STATE DEPARTMENT OF transportation budget which shall be subject to legislative approval. Fifty percent of the operating budget of an authority in which not more than 1 county and not more than 1 city participate shall be funded equally by the participating county and city

Sec. 24 (3) PROJECT COSTS OF A SPECIFIC PROJECT, INCLUDING DEVELOPMENT COSTS OR COSTS OF AN UNDERTAKING OF AN AUTHORITY, SHALL BE PAYABLE FROM ANY LEGALLY AVAILABLE SOURCE.

SEC 31 (B) THE AGREEMENT IS PAYABLE FROM GENERAL FUNDS OF THE
AUTHORITY OR, SUBJECT TO ANY EXISTING CONTRACTS, FROM ANY
AVAILABLE MONEY OR REVENUE SOURCES, INCLUDING REVENUES
THAT SHALL BE SPECIFIED BY THE AGREEMENT, SECURING THE
OBLIGATION OR EVIDENCE OF INDEBTEDNESS IN CONNECTION WITH
THE AGREEMENT.

Sec. 32 (1) WITH THE APPROVAL OF THE STATE TREASURER, AN

AUTHORITY MAY OBTAIN A LINE OF CREDIT TO SECURE FUNDS FOR OPERATIONS OR TO PAY PREVIOUS LOANS OBTAINED FOR OPERATIONS UNDER THIS OR ANY OTHER STATUTE. THE AUTHORITY SHALL PLEDGE NOT MORE THAN 100% OF THE REVENUES COLLECTED IN THE PRECEDING FISCAL YEAR THAT ARE NOT OTHERWISE ENCUMBERED OR PREVIOUSLY PLEDGED FOR THE PAYMENT OF A SECURITY.

(2) TO OBTAIN APPROVAL FOR OBTAINING A LINE OF CREDIT UNDER THIS SECTION, AN AUTHORITY SHALL APPLY TO THE STATE TREASURER IN THE FORM AND MANNER PRESCRIBED BY THE STATE TREASURER AND SHALL PROVIDE INFORMATION AS REQUESTED BY THE STATE TREASURER FOR EVALUATING THE APPLICATION. THE STATE TREASURER SHALL APPROVE OR DISAPPROVE AN APPLICATION AND NOTIFY THE AUTHORITY WITHIN 20 BUSINESS DAYS AFTER RECEIVING A PROPER APPLICATION. IF THE STATE TREASURER DISAPPROVES AN APPLICATION, THE STATE TREASURER SHALL INCLUDE THE REASONS FOR DISAPPROVAL IN THE NOTIFICATION TO THE AUTHORITY.

(3) ANY LINE OF CREDIT RECEIVED UNDER THIS SECTION SHALL NOT RESULT IN ANY DEBT OR LIABILITY TO THE GOVERNING BODY, WITHOUT THE APPROVAL OF THE GOVERNING BODY.